

MONTANA LEGISLATIVE HISTORY

Chapter 195 19 79

Bill H 499 S _____ Original bill & history C

H. Committee on Taxation

Hearing Date(s) Feb 08 ☒ C

Feb 14 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Feb 14 ☒ C

S. Committee on Taxation

Hearing Date(s) Mar 03 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Mar 03 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 House BILL NO. 499
2 INTRODUCED BY Johnson, Eugene Loy Ann
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE
6 DEPARTMENT OF REVENUE TO COMPUTE THE CONSUMER COUNSEL FEE
7 OWED BY A REGULATED COMPANY IF THE COMPANY FAILS TO FILE A
8 GROSS REVENUE STATEMENT; PROVIDING FOR A PENALTY AND
9 INTEREST FOR FAILURE TO FILE A STATEMENT OR FOR FAILURE TO
10 PAY FEES; PROVIDING THAT UNPAID FEES, PENALTIES, AND
11 INTEREST ARE A LIEN ON THE REAL PROPERTY OF THE REGULATED
12 COMPANY."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Computation and collection of fee in
16 absence of statement -- penalty and interest. (1) If a
17 regulated company or an officer or employee of a regulated
18 company fails, neglects, or refuses to file the statement
19 required by 69-1-223(2), the department of revenue may after
20 the time for filing has expired proceed to inform itself, as
21 best it may, regarding the regulated company's gross
22 operating revenue from all activities regulated by the
23 commission within the state for the calendar quarter,
24 quarters, or portion thereof and may determine and fix the
25 amount of the consumer counsel fee due.

1 (2) The department may add to the amount of the fee
2 computed under subsection (1), in addition to any other
3 penalty provided by law, a penalty of 10% thereof plus
4 interest at the rate of 1% per month or fraction of month
5 computed on the total amount of fee and penalty. Interest is
6 computed from the date the fee is due to the date of
7 payment.

8 (3) The department of revenue shall mail to the
9 regulated company a letter setting forth the amount of the
10 fee, penalty, and interest and notifying the company that
11 payment of the full amount of the fee, penalty, and interest
12 must be remitted within 15 days of the regulated company's
13 receipt of the letter; otherwise a lien may be filed.

14 (4) The 10% penalty may be waived by the department of
15 revenue if reasonable cause for failure and neglect to file
16 the statement is provided to the department.

17 Section 2. Failure to pay fee -- penalty and interest
18 -- collection of fee. (1) If a regulated company or an
19 officer or employee of a regulated company files the
20 statement required by 69-1-223(2) but fails, neglects, or
21 refuses to pay the fee due within the time required, the
22 department of revenue may after the time for payment has
23 expired add to the fee due, in addition to any other penalty
24 provided by law, a penalty of 10% thereof plus interest at
25 the rate of 1% per month or fraction of month computed on

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2 computed from the date the fee is due to the date of
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9 receipt of the letter; otherwise a lien may be filed.

10 (3) The 10% penalty may be waived by the department of
11 revenue if reasonable cause for failure and neglect to make
12 payment is provided to the department.

13 Section 3. Fee, penalty, and interest as lien. The
14 fee, penalty, and interest due from a regulated company are
15 a lien upon all real property of the regulated company
16 within a county when the department of revenue files a
17 certified copy of the amounts due in the office of the clerk
18 of court of the county where the property is located. The
19 lien has precedence over any claim, lien, or demand
20 thereafter filed and recorded and may be enforced in the
21 name of the state of Montana in the same manner as judgment
22 liens are enforced by law.

23 Section 4. Codification. Sections 1 through 3 are
24 intended to be codified as an integral part of Title 69,
25 chapter 1, part 2, and the provisions contained in Title 69,

1 chapter 1, part 2 and Title 69, chapter 2, apply to sections
2 1 through 3.

-End-

HOUSE TAXATION COMMITTEE

46th Legislature

Rep. Herb Huennekens, Chairman, called the Taxation Committee to order at 8:30 a.m., February 9, 1979, in room 434, Capitol Building, Helena. All committee members were present. Staff attorney Randy McDonald was present.

Bills to be heard were House Bills 510, 512, 499.

Rep. Vicki Johnson, District #72, Columbus, chief sponsor of HB 499, at the request of the Department of Revenue, explained this bill pertains to the consumer counsel fee paid by the utilities. It provides for a 10% penalty and interest for failure to file or to pay the fee. Gives them the power to put a lien on any property affected.

HOUSE BILL James Madison, Miscellaneous Tax Division administrator,
 Department of Revenue, advised the majority of the consumer
 499 counsel fee is paid by four taxpayers - Montana Power,
 Montana-Dakota Utilities, Mountain Bell and Burlington
Northern - they have no trouble with them.

Basically are talking about small truckers. Some PSC permit numbers have remained on the books for years and years and small operators are coming and going and cannot keep good track of them. Want to bring this in line with the rest of the taxes.

There were no opponents.

Rep. Johnson did not feel it necessary to close.

Questions from the committee -

Rep. Burnett asked how much money are you talking about? Mr. Madison advised \$80-\$125,000 per fiscal year.

Rep. Reichert asked how many truckers are there? Mr. Madison said about 400.

Rep. Johnson asked what amount goes uncollected? Mr. Madison said it is a fairly small amount - less than \$10,000, probably less than \$5,000 per fiscal year.

Rep. Underdal asked how much paperwork is involved for each trucker? Mr. Madison said one report per quarter where the tax being paid is less than \$10 per quarter. Have allowed small truckers to file on a yearly basis if less than \$10.

Rep. Robbins asked what this does to out-of-state truckers? Mr. Madison said only if they have intrastate hauling would they have to pay the tax.

Rep. Sivertsen asked what is the fee they would be paying, how is it based and what would be the dollar figure? Mr. Madison said the actual tax return is computed each year - .0006 of gross operating regulated revenues.

Truckers of livestock have to pay the fee, but do not have to pay for trucking grain.

HB 499 provides statutory authority for penalty and interest and is the same as in other lines.

Rep. Lien remarked the tax would be very small - maybe not worthwhile to collect.

Rep. Hirsch asked why collect a fee on the hauling of cattle and not grain? Cattle hauling is regulated.

Geoffrey Brazier, Administrator of the Consumer Counsel Division, advised there is a provision in the law now that is paid by the municipality and as a result in a court case, a consumer has claimed is unconstitutional because one entity is taxed differently than another.

Rep. Fabrega suggested an exemption up to \$100,000 deduction.

Rep. Reichert was appointed to act as chairman.

Rep. Herb Huennekens, District #68, Billings, chief sponsor explained HB 510 places in the state inheritance tax law the same approach to taxation of estates on productive value rather than market value that includes farm land or small business and provides a route whereby these estates may be
HOUSE BILL be kept within the family ownership. This would be a tool
 toward preserving family farms and small businesses.

510

This bill would provide that if the land continues to be held in agricultural use it will be based on productivity value. The federal law took full cognizance of this. The bill has a whole series of safety features in it. On page 1, lines 15 and 16 apply to small businesses as well as farms.

Page 3, line 6, answers the question of when a person is a farmer. It describes a person's eligibility for this special treatment. Page 6, line 6 shows how it is assessed. Section 7 deals with the sale of land by the inheritor. Inheritors must actually operate the farm or they lose any gain from inheritance tax special treatment - must be farmed for 15 years after decedent's death.

Ron de Yong, Kalispell, farms 320 acres 5 miles from Kalispell. Has a wife and two children. He supports HB 510 - see his testimony attached.

There were no opponents.

Rep. Huennekens said in 1976 the federal inheritance tax laws were lowered.

Questions from the committee -

Rep. Johnson asked how long would there be any delay of loss of revenue to the state? Tom Stohl, director of Inheritance Tax Division of the Department of Revenue, said this bill creates a real statistical problem. Cannot set any figure loss because not as many people are using this as you might think. Farmers don't want the government with a lien on their land for 15 years. Don't know when the maximum loss might occur.

have this tax break, Mr. Lewis said it does apply more to commercial property. Allowance of deduction by every person that elects it shall be entitled to it.

EXECUTIVE SESSION

HOUSE BILL 461 - Rep. Bertelsen asked Bruce McGinnis, DoR legal department, if he had any particular objection to making an evasion a felony, and in the case of an attempt, that would be a misdemeanor. Recommendations made by Rep. Scully, chairman, and the judiciary committee. Mr. McGinnis thought they both ought to be felonies. The question of where such a case should be tried was discussed. Mr. McGinnis said the court in Helena had tried 6 or 7 cases and is becoming sophisticated enough to understand tax evasion cases. They don't have revenue or resources to go out into the county and try them in the county where the taxpayer lives. Could only take those cases where there is a big enough return to justify the cost. This is an effective program.

Rep. Huennekens asked if the cases of downright refusal to pay are cases the department is trying to correct. Mr. McGinnis said a person was scheming and goes out of business without reporting income. The total income tax is 11% - total tax evasion is \$12,000 - that's a lot of income not reported.

Rep. Lien asked how many actual criminal prosecutions are there in a year out of 200,000 returns? Mr. McGinnis said they have filed approximately 9 cases. They have presently pending another 40 some that they could file on and will eventually get to those. Their audit programs are becoming more sophisticated and are becoming more aware of what is going on in this regard and it is difficult to say how many cases would have in any one year. In the future would have some 10-15 of this type a year. They are experiencing quite a bit of pressure from people that are attending seminars, etc.

Rep. Bertelsen asked Mr. McGinnis if a person doesn't file a return because he doesn't know, that would be a misdemeanor; and the person who is trying to get out of the tax, that would be a felony. Mr. McGinnis said could make the whole thing a felony.

Rep. Underdal asked how many cases has the department of revenue won? All of them. Question of reimbursing those who win arose.

Rep. Huennekens said the committee will have the researcher work with the attorneys from the department of revenue and draft a bill for clarification of attempt to evade and evasion.

HOUSE BILL 457 - Rep. Lien moved statement of intent be included in HB 457. Motion adopted unanimously.

HOUSE BILL 499 - Rep. Johnson moved HB 499 DO PASS. Rep. Vinger made a substitute motion HB 499 DO NOT PASS. Rep. Burnett commented when hauling livestock trucks are regulated, but when hauling grain are not regulated. Rep. Sivertsen feels should change for hauling livestock. A roll call vote was 7-8 for a DO NOT PASS motion, so motion failed. Decision was reversed making HB 499 DO PASS. Reps. Robbins, Hirsch, Gilligan, Fagg were absent.

Meeting adjourned at 11:15 a.m.

Mar. 3, 1979

tions. Senator Manley asked how this bill would relate to the irrigation sprinkler exemption bill which had come out of this committee. Senator Towe suggested an amendment to the bill in the event Senator Manley's bill, Senate Bill 167 did pass. There followed brief discussion and the hearing on HB256 was closed.

CONSIDERATION OF HOUSE BILL 499: Representative Johnson said her bill provides penalty and interest rate for the Consumer Council for failure to file gross operating revenue statement. Mr. Madison of the Department said they had been trying to standardize the method of penalty to bring this tax in line with changes in other licenses in the Miscellaneous Tax Division. He said there were 4 other bills coming that were also a part of their on-going project to bring such miscellaneous licensing into conformity.

The Chairman called for other proponents or opponents, and following, for questions of the committee. It was brought out that the larger companies in the state pay the major share of the tax; however anyone, firm, company, that is regulated by the Public Service Commission is liable for the Consumer Council tax. Senator Towe stated the council has very little income coming in and at one time had depleted their funds. Following discussion the committee decided to move the bill:

Senator Norman Moved HB499 Be Concurred In. The motion carried unanimously.

The Chairman then asked the committee to look over Senate Bills 234, 235 and 236, by Senator MacCallum. He said the bills had been written to provide procedures for general bond elections one for cities, one for counties and one for local governments and he said the bills could be amended, perhaps all included in just one bill.

There followed discussion on the amending of the bills and SB234 was discussed and amended, see Committee Report attached. The amendments were accepted.

Senator Towe Moved Amendments to SB234. Motion carried.

Senator MacCallum then Moved SB234, As Amended, Do Pass. The motion carried. Note for the record "No" votes cast by Senators Brown and Roskie.

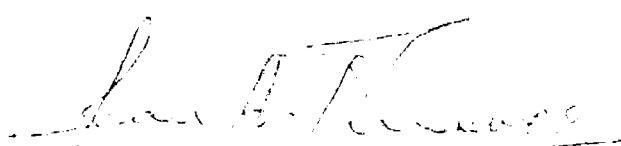
The committee then discussed SB235 and agreed that with the proper amendments, similar to those of SB234, this bill too, could go out of the committee.

Senator Towe Moved SB236 be Tabled. Motion carried unanimously.

Senator Goodover Moved SB430 be Tabled. Motion carried. Note for the record "No" votes were cast by Senators Hager and Towe.

Senator Severson Moved SB343 be Tabled. Motion carried unanimously.

Meeting was then adjourned.



ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. MCCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

HOUSE BILL NO. 499

INTRODUCED BY JOHNSON, QUILICI, LORY, TOWE

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE DEPARTMENT OF REVENUE TO COMPUTE THE CONSUMER COUNSEL FEE OWED BY A REGULATED COMPANY IF THE COMPANY FAILS TO FILE A GROSS REVENUE STATEMENT; PROVIDING FOR A PENALTY AND INTEREST FOR FAILURE TO FILE A STATEMENT OR FOR FAILURE TO PAY FEES; PROVIDING THAT UNPAID FEES, PENALTIES, AND INTEREST ARE A LIEN ON THE REAL PROPERTY OF THE REGULATED COMPANY."

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(2) The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of 10% thereof plus interest at the rate of 1% per month or fraction of month computed on the total amount of fee and penalty. Interest is computed from the date the fee is due to the date of payment.

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(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file the statement is provided to the department.

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1 chapter 1, part 2 and Title 69, chapter 2, apply to sections
 2 1 through 3.

-End-